



BALTIMORE CITY COUNCIL

WILLIAM "PETE" WELCH
NINTH DISTRICT

COMMITTEE MEMBERSHIPS:
VICE CHAIR
EXECUTIVE APPOINTMENTS
EDUCATION
HEALTH
URBAN AFFAIRS AND AGING
HOUSING
COMMUNITY DEVELOPEMENT

August 22, 2015

Stanley,

Please find attached a draft of my proposal to license exotic dancers in Baltimore City. I didn't know it the liquor board wanted to chime in. let me know if this might be an item of interest. Thanks.

Sincerely,

William Pete Welch



INTRODUCTORY*
CITY OF BALTIMORE
COUNCIL BILL _____

Introduced by: Councilmember Welch

A BILL ENTITLED

AN ORDINANCE concerning

Adult Entertainment – Licensing Adult Entertainment Workers

FOR the purpose of requiring that anyone working or performing for compensation in an adult entertainment business be licenced; setting the license fee for adult entertainment workers; defining certain terms; setting certain penalties; clarifying and conforming related provisions; and generally relating to adult entertainment.

BY repealing and reordaining, with amendments

Article 15 - Licensing and Regulation

Section(s) 1-1, 1-7 through 1-9, 1-12 through 1-17, and 1-28 through 1-30

Baltimore City Code

(Edition 2000)

BY repealing and reordaining, without amendment

Article 15 - Licensing and Regulation

Section(s) 1-3 and 1-38

Baltimore City Code

(Edition 2000)

BY adding

Article 15 - Licensing and Regulation

Section(s) 1-6

Baltimore City Code

(Edition 2000)

BY renumbering, with amendments

Article 15 - Licensing and Regulation

Section(s) 1-10 and 1-11

to be

Section(s) 1-11 and 1-12, respectively

Baltimore City Code

(Edition 2000)

**EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.**

*** WARNING: THIS IS AN UNOFFICIAL, INTRODUCTORY COPY OF THE BILL.
THE OFFICIAL COPY CONSIDERED BY THE CITY COUNCIL IS THE FIRST READER COPY.**

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 15. Licensing and Regulation

Subtitle 1. Adult-Entertainment Businesses

Part I. Definitions; General Provisions

§ 1-1. Definitions.

(a) *In general.*

In this subtitle, the following terms have the meanings indicated.

(b) *Adult entertainment.*

(1) *Supplemental terms defined.*

(i) *In general.*

In this subsection, the following terms have the meanings indicated.

(ii) *Nudity.*

“Nudity” means:

(A) the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering;

(B) the showing of the female breast with less than a fully opaque covering over any part below the top of the nipple; or

(C) the depiction of covered male genitals in a discernibly turgid state.

(iii) *Partial nudity.*

“Partial nudity” means a state of dress in which opaque clothing covers no more than:

(A) the human male or female genitals, pubic area, or buttocks;

(B) the female breasts below the top of the nipples; and

(C) portions of the body covered by supporting straps or devices.

(2) *"Adult entertainment" defined.*

"Adult entertainment" means live entertainment:

- (i) in which individuals appear for public view in a state of nudity or partial nudity;
- (ii) that is intended to provide sexual stimulation or sexual gratification;
- (iii) that is distinguished or characterized by an emphasis on material that depicts, describes, or relates to:
 - (A) human genitals in a discernible state of sexual stimulation or arousal; or
 - (B) acts of human masturbation, sexual intercourse, sodomy, or physical contact with an individual's clothed or unclothed genitals, pubic area, buttocks, or, if the individual is female, breast; or
- (iv) that, applying contemporary standards, the average individual would find, taken as a whole, appeals to the prurient interest.

(c) *Adult-entertainment business.*

"Adult-entertainment business" means any cabaret, lounge, night club, modeling studio, or other establishment that offers its customers adult entertainment.

(D) *ADULT-ENTERTAINMENT LICENSE.*

"ADULT-ENTERTAINMENT LICENSE" MEANS:

- (1) AN ADULT-ENTERTAINMENT BUSINESS LICENSE REQUIRED BY § 1-7 {"BUSINESS LICENSE REQUIRED"} OF THIS SUBTITLE; OR
- (2) AN ADULT-ENTERTAINMENT WORKER LICENSE REQUIRED BY § 1-6 {"WORKER LICENSE REQUIRED"} OF THIS SUBTITLE

(E) [(d)] *Board.*

"Board" means the Board of Liquor License Commissioners for Baltimore City.

(F) [(e)] *Includes; including.*

"Includes" or "including" means by way of illustration and not by way of limitation.

(G) [(f)] *Person.*

(1) *In general.*

"Person" means:

- (i) an individual;
- (ii) a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind; or
- (iii) a partnership, firm, association, corporation, or other entity of any kind.

(2) *Exclusions.*

“Person” does not include, unless otherwise expressly provided, a governmental entity or an instrumentality or unit of a governmental entity.

§ 1-3. Rules, regulations, and forms.

(a) *Board to adopt.*

The Board may adopt rules, regulations, and forms to carry out the provisions of this subtitle.

(b) *Advertising for hearing and comment.*

(1) The Board must advertise for public hearing and comment all rules and regulations proposed for adoption under this subtitle.

(2) The advertisement:

(i) must be published in a newspaper of general circulation at least 15 days before the hearing; and

(ii) must include:

(A) a description of the proposed rules and regulations;

(B) the date, time, and location of the public hearing; and

(C) information on how a person can obtain a copy of the proposed rules and regulations before the hearing.

(c) *Adoption; filing.*

(1) After the public hearing, the Board may adopt the final rules and regulations with an effective date of at least 15 days after the date of their adoption.

(2) A copy of the rules, regulations, and forms and of any amendments to them must be filed with the Department of Legislative Reference before they may take effect.

§ 1-5 . {Reserved}

Part 2. Licensing

§ 1-6. WORKER LICENSE REQUIRED.

(a) *IN GENERAL.*

A PERSON MAY NOT BE EMPLOYED BY ANY ADULT-ENTERTAINMENT BUSINESS, OR PROVIDE ADULT ENTERTAINMENT IN ANY ADULT-ENTERTAINMENT BUSINESS FOR COMPENSATION OF ANY KIND, WITHOUT HAVING FIRST OBTAINED AN ADULT-ENTERTAINMENT WORKER LICENSE AS PROVIDED IN THIS SUBTITLE.

(b) *FORM.*

THE APPLICATION FOR THIS LICENSE MUST BE IN THE FORM AND CONTAIN THE INFORMATION THAT THE BOARD REQUIRES.

§ 1-7. [License] BUSINESS LICENSE – Required.

A person may not own or operate any adult-entertainment business without having first obtained an adult-entertainment business license as provided in this subtitle.

§ 1-8. [Applications] BUSINESS LICENSE APPLICATIONS – In general.

(a) *Owner and operator to apply jointly.*

The owner and operator of the adult-entertainment business must apply jointly to the Board for the ADULT-ENTERTAINMENT BUSINESS license.

(b) *Form.*

The application must be in the form and contain the information that the Board requires.

(c) *When made.*

- (1) An application for an adult-entertainment business license must be made on or before the date of applying for the conditional use approval required under the Zoning Code.
- (2) The adult-entertainment business license may not become effective unless a conditional use has been approved and any right of appeal contesting that approval has been exhausted.

§ 1-9. [Applications] BUSINESS LICENSE APPLICATIONS – Responsible party.

(a) *By whom made.*

FOR AN ADULT-ENTERTAINMENT BUSINESS LICENSE, [The] THE application of every owner and operator must be made as follows:

- (1) if a corporation, by its chief executive officer;
- (2) if a partnership, by its managing partner; or
- (3) if a proprietorship, by its owners.

(b) Information and determination.

All information required in the application about an applicant must be given with respect to the individuals making the application, and the determination of the Board must be based on the eligibility of those individuals.

§ 1-10. [§ 1-12.] BUSINESS LICENSE – Posting; objections.

(a) Posting required.

On filing an application for [a license] AN ADULT-ENTERTAINMENT BUSINESS LICENSE (other than a renewal license), the applicant must post the proposed location for 15 days, in accordance with the Board's rules and regulations.

(b) 9 or fewer objections.

If, within the 15-day posting period, the Board receives no more than 9 written objections from property owners or residents within the same election precinct as the proposed location, the adult-entertainment business license may be issued.

(c) 10 or more objections.

(1) If, within the 15-day posting period, the Board receives 10 or more written objections from property owners or residents within the same election precinct as the proposed location, the Board must hold a hearing on the matter.

(2) Unless the applicant agrees to a later date, the hearing must be held within 15 days after the last day of the 15-day posting period.

(3) At the hearing, parties in interest and citizens must be given an opportunity to be heard.

§ 1-11. [§ 1-10.] Investigation of applicants.

On receipt of [the application] AN APPLICATION FOR ANY ADULT-ENTERTAINMENT LICENSE, the Board must investigate the character and qualifications of the applicants.

§ 1-12. [§ 1-11.] Qualifications.

(a) In general.

An adult-entertainment [business] license may not be issued to any person [to own or operate an adult-entertainment business] unless the applicant:

(1) based on the considerations specified in subsection (b) of this section, is of good moral character;

(2) is at least 18 years of age; and

(3) within the preceding 3 years, has not been convicted of or pleaded guilty or nolo contendere in any jurisdiction to a felony involving:

- (i) moral turpitude;
- (ii) controlled dangerous substances;
- (iii) prostitution;
- (iv) obscenity; or
- (v) any other crime that is sexual in nature.

(b) *Required considerations.*

In determining moral character, the Board must consider:

- (1) all criminal convictions of the applicant; and
- (2) the business history of the applicant.

§ 1-13. Decision on application.

(a) *Board to decide.*

The Board must notify the applicant in writing of its decision to grant or deny [the] AN ADULT-ENTERTAINMENT license as follows:

- (1) FOR A WORKER LICENSE, WITHIN 15 DAYS OF THE RECEIPT OF THE APPLICATION; OR
- (2) FOR A BUSINESS LICENSE:
 - (i) [(1)] if no hearing is held under [§ 1-12(c)] § 1-10(c) of this subtitle, within 15 days after the last day of the 15-day posting period; and
 - (ii) [(2)] if a hearing is held under [§ 1-12(c)] § 1-10(c) of this subtitle, within 15 days after conclusion of the hearing.

(b) *Denial.*

- (1) Any denial of an adult-entertainment [business] license must be based solely on the qualifications set forth in [§ 1-11] § 1-12 {"QUALIFICATIONS"} of this subtitle.
- (2) The notice of a denial must:
 - (i) specify the reasons for the denial; and
 - (ii) notify the applicant of the opportunity to request a hearing under § 1-30 of this subtitle.

§ 1-14. Term and renewal of licenses.

(a) *Term.*

Each adult-entertainment [business] license expires annually on June 30 and is renewable as provided in this section¹.

(b) *Application for renewal.*

- (1) To renew an adult-entertainment [business] license, the licensee must apply no less than 30 days nor more than 60 days before the license expires.
- (2) The renewal application must be in the form and contain the information that the Board requires.

(c) *Approval.*

On filing the renewal application and payment of the renewal fee, the Board may approve the application, except as provided in subsection (d) of this section.

(d) *Protest and hearing FOR BUSINESS LICENSES.*

- (1) If, before the end of the renewal period FOR AN ADULT-ENTERTAINMENT BUSINESS LICENSE, 10 or more written objections from property owners or residents within the same election precinct as the licensed premises are filed with the Board, the Board must hold a public hearing on the proposed renewal.

- (2) Parties in interest and citizens must be given an opportunity to be heard.

(E) *GROUND FOR DENIAL.*

- [(3)] Any denial of a renewal license must be based solely on the standards set forth in § 1-28 {"DENIAL, SUSPENSION, OR REVOCATION"} of this subtitle.

§ 1-15. Fee for license.

(a) *Annual fee.*

The annual license fee, PAYABLE ON OR BEFORE JUNE 30 OF EACH YEAR², is:

- (1) \$1,000 for each adult-entertainment business LICENSE [, payable on or before June 30 of each year]; AND
- (2) \$300³ FOR EACH ADULT-ENTERTAINMENT WORKER LICENSE.

(b) *Initial fee.*

¹ This would apply the same annual renewal date to worker licenses as is currently used for business licenses, you may want to check with the liquor board about whether they'd prefer a different date for each, or rolling renewals for the workers instead.

² Assumes that the renewal date for all licenses is the same, we'd have to modify this to accommodate different renewal dates if desired.

³ This is the number from our last conversation, but it could be set differently if you'd prefer.

The license fee for less than a full initial year is prorated quarterly.

§ 1-16. Waiting period after denial.

If the Board denies an adult-entertainment [business] license or renewal license, the applicant may not reapply for at least 9 months from the date of the Board's final decision or, if that decision was appealed, from the date of the final court decision.

§ 1-17. Transfer of BUSINESS license.

An adult-entertainment business license is not transferable to a new owner or operator without a new application to the Board.

Part 4. Administrative Sanctions

§ 1-28. Denial, suspension, or revocation.

(a) *In general.*

The Board may deny, suspend, or revoke an adult-entertainment [business] license or renewal license for any of the following causes:

- (1) failing to pay the applicable license fee on or before the due date;
- (2) making any material false statement in any application for an initial or renewal license;
- [(3) lack of accessibility for fire and police protection;]
- [(4) failing to comply with any provision of the Building, Fire, and Related Codes of Baltimore City, the Health Code of Baltimore City, or the Zoning Code of Baltimore City;]
- (3) [(5)] failing to comply with any provision of this subtitle or of any rule or regulation adopted under this subtitle; [or]
- (4) [(6)] failing to comply with any provision of any other local, state, or federal law that affects or relates to the operation of the adult-entertainment business; OR
- (5) FOR AN ADULT-ENTERTAINMENT BUSINESS LICENSE:
 - (I) LACK OF ACCESSIBILITY FOR FIRE AND POLICE PROTECTION; OR
 - (II) FAILING TO COMPLY WITH ANY PROVISION OF THE BUILDING, FIRE, AND RELATED CODES OF BALTIMORE CITY, THE HEALTH CODE OF BALTIMORE CITY, OR THE ZONING CODE OF BALTIMORE CITY.

(b) *Offenses by LICENSEE, owner, operator, or manager.*

The Board also may deny, suspend, or revoke an adult-entertainment [business] license or renewal license for the violation, by THE LICENSEE, OR any owner, operator, or manager of

the LICENSED adult-entertainment business, of any provision of any local, state, or federal law that involves:

- (1) the manufacture, distribution, possession, or administration of controlled dangerous substances;
- (2) prostitution, sodomy, perverted sexual practices, or a bawdy house or disorderly house; or
- (3) obscene matter or immoral practices.

(c) Offenses by employee, etc., or vendor.

The Board also may deny, suspend, or revoke an adult-entertainment business license or renewal license for the violation, by any employee, agent, independent contractor, or vendor of the adult-entertainment business, of any law referred to in subsection (b) of this section, if:

- (1) the offense occurred on the premises of the adult-entertainment business; and
- (2) either:
 - (i) the owner, operator, or manager affirmatively or tacitly approved of the offense;
 - (ii) the owner, operator, or manager had actual or constructive knowledge of the offense;
 - (iii) the owner, operator, or manager reasonably should have known of the offense; or
 - (iv) the offense was a result of the owner, operator, or manager's failure to supervise.

§ 1-29. Fines.

For any violation that is cause for suspending or revoking [a] AN ADULT-ENTERTAINMENT license, the Board may, instead of or in addition to suspending or revoking the license, impose a civil fine of:

- (1) for a 1st offense, not more than \$500; and
- (2) for any subsequent offense, not more than \$1,000.

§ 1-30. Notice and hearing.

(a) In general.

No adult-entertainment [business] license or renewal license may be denied, suspended, or revoked and no fine may be imposed unless the Board gives the applicant or licensee:

- (1) at least 10 days' written notice of the intent to impose sanctions; and
- (2) an opportunity to be heard as to why sanctions should not be imposed.

(b) *Denial of initial license.*

For the proposed denial of an initial license, a hearing must be held within 30 days of a timely request, unless the applicant agrees to a later date.

Part 6. Penalties

§ 1-38. Penalties.

(a) *In general.*

Any person who violates, omits, neglects, or refuses to comply with, or resists the enforcement of any provision of this subtitle or of any rule or regulation adopted under this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$500.

(b) *Each day a separate offense.*

Each day that a violation continues after notification constitutes a separate offense.

SECTION 2. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 30th day⁴ after the date it is enacted.

⁴ This is the standard time period, but for something sweeping like this a longer period may be desired. If you keep June 30th as the renewal date for all licenses, it might make sense to make the bill effective on June 30th, 2015.